

2000

Statewide Bail Bonds v. South Salt Lake City : Brief of Appellee

Utah Court of Appeals

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IN THE UTAH COURT OF APPEALS

STATEWIDE BAIL BONDS,

Petitioner/Appellant,

vs.

Priority No. 15

SOUTH SALT LAKE CITY,

Case No. 20001021-CA

Respondents/Appellees.

APPELLEE SOUTH SALT LAKE CITY'S RESPONSE

Appeal from the Third District Court
Judge William B. Bohling

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Utah Court of Appeals

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Paulette Stagg
Clerk of the Court

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JURISDICTIONAL STATEMENT

Statewide filed this appeal before the Utah Supreme Court, which transferred the case pursuant to Utah Code Ann. § 78-2a-3(2)(j). However, it appears that the Utah Court of Appeals has original jurisdiction pursuant to Utah Code Ann. § 78-2a-3(2)(b)(i).

STATUTORY PROVISIONS

Utah Statutes governing this case include UTAH CODE ANNOTATED § 31A-35-701(2001) and UTAH CODE ANNOTATED § 63-30-11(2001).

STATEMENT OF THE CASE

Statewide seeks reversal of the decision of the Third District Court, Salt Lake County, made pursuant to UTAH CODE ANNOTATED § 10-9-1001(2001), finding that the City of South Salt Lake did not act arbitrarily or capriciously in denying Statewide's request for a zoning change.

The zoning issue was presented to the district court pursuant to cross-motions for summary judgment. By operation of law, there were no factual issues to prevent the Court from ruling on the legal issues presented by both parties in their respective summary judgment motions.

Statewide sought to have the district court reverse the City's denial of their application to rezone a single parcel of agriculturally zoned property to permit operation of a bail bond business. The district court found that the legislative decision of the City was

reasonably debatable and, therefore, not arbitrary or capricious.

Statewide also claimed that they were entitled to a de facto zoning change by reason of having been granted a business license to operate a home business on the property by Salt Lake County prior to the annexation of the property by the City. The district court found that Statewide had failed to exhaust their administrative remedies by failing to seek administrative review by the Business License Hearing Board of the City. Furthermore, the business license agreement fails as a matter of law because it was improperly issued by Salt Lake County in the first instance. The “nonconforming use” was contrary to the County’s general plan, and the issuance of the business license to plaintiffs by Salt Lake County without City Council approval exceeded the ministerial authority of the County employee issuing the business license.

The district court found that the legislative record was available and adequate and appropriately granted the City’s motion for summary judgment and denied plaintiffs’ cross-motion for summary judgment.

STATEMENT OF FACTS

1. The area where Statewide’s property is located was annexed to South Salt Lake City (“City”) effective October 1, 1998.
2. At the time of annexation, Statewide’s property was located in an A-1 Agricultural zone in Salt Lake County (“County”). (Russell Lawson Deposition, pg. 8)

3. Operation of a bail bond business is neither a permitted nor a conditional use within an A-1 zone under the Salt Lake County zoning ordinance, Chapter 19.48. (Exhibit A.)
4. On July 23, 1998, Statewide Bail Bonds applied for a business license with Salt Lake County. (Exhibit B.)
5. The business license was given initial approval by Salt Lake County Development Services on the belief that Statewide Bail Bonds use of the property confirmed with a conditional use within the agricultural zoning. (Lawson Deposition, pg. 10)
6. Russell Lawson, the county development services employee, issued a business license to Statewide Bail Bonds based in part on its representation that use of the property would be limited to phone and mail business contact without any storage or customer contact on the property. (Lawson Deposition, pg. 10)
7. County Commission approval of the business license did not come until November 4, 1998, 35 days after the effective date of the annexation. (Lawson Deposition, pg. 12)
8. After annexation by the City, County issued a business license, Account Number 37430, dated November 4, 1998 with an expiration date of the last day of December 1998 to Statewide Bail Bonds. The license provides that the “license is valid only for type of business stated.” No entry on the license was

made in the area to identify “Business Type.” (Exhibit C)

9. After annexation, Statewide applied to the City for a license to conduct a bail bond business on its property located at 3350 South 900 West (the “Property”). (Exhibit D)
10. On July 2, 1999, the City notified Statewide by mail that their business license application has been denied. (SSL Denial Letter, Exhibit E)
11. The notification included the reasoning involved in the denial of the business license including
 1. The business license issued by County was impermissible because it violated zoning regulations; and
 2. The property is located in an area that does not allow for operation of “bail-bonding” businesses;
 3. City would allow operation of the bail-bond business to continue for a reasonable time period, but no longer than the calendar year (1999);
 4. City would only allow Statewide to continue to operate through the end of the year as it complied with City’s inspection requirements and did not allow further storage on the property.
12. The City’s business license ordinance provides for appeal of a denial of a business license to the Business License Hearing Board:

A person may appeal a decision of the business license official to deny, suspend or revoke a business by filing written notice of appeal,

directed to the business license hearing board, and filed with the city recorder, within ten working days of the date of the business license official's notice to deny . .

(Ordinances of City of South Salt Lake, § 5.02.190A.)

13. City ordinance further provides that appeal of a decision of the Business License Hearing Board must be made to the district court within 30 days from the date the board submits its written decision. (Ordinances of City of South Salt Lake, § 5.02.220.)
14. Statewide did not seek administrative appeal of the denial of their business license application to the Business License Hearing Board.
15. On June 2, 1999, Statewide filed a request to change the property's zoning status from agricultural to commercial. The purposes stated in the zoning change request including:
 1. Operation of a bail bond business;
 2. Storage of vehicles as a part of the bail bonding business.
16. On October 19, 1999, the City Planning Commission considered the proposed zoning change, it allowed Statewide's attorney to argue the case and also received public comment. Public opinion on the matter was overwhelmingly in favor of preserving the area for agricultural use. (Minutes, City of South Salt Lake Council Meeting, Wednesday January 12, 2000, relevant portions enclosed at Exhibit F)
17. After the hearing, the Planning Commission determined that the area should

remain agricultural for four reasons; (1) the rezoning does not comply with the General Plan; (2) the change would result in spot zoning; (3) the property constitutes the only agricultural land within its boundaries; and (4) two-thirds of the City is already zoned to accommodate a bail bond business. (Exhibit F)

18. The City Council first considered the rezoning application on December 8, 1999.
19. The City Council considered the rezoning application during a public meeting on January 12, 2000. The City Council meeting allowed for Statewide to present it's case through it's attorney along with considerable public input. (Exhibit G)
20. The City Council voted unanimously to deny the change of zoning from A-1 to Business-A.

SUMMARY OF ARGUMENT

The City legally refused to issue a business license to Statewide, who desired to operate a commercial bail bonds business on property zoned for agricultural use. The business license was denied because it did not conform with agricultural uses designated by the general plan of both the County and the City. Moreover, the County's action in issuing a business license prior to annexation was contrary to its own zoning regulations and its own general zoning plan. Therefore, there is no "grandfather right" to continued licensing or operation of the business as it does not constitute a designated

nonconforming use. Furthermore, the issuance of the business license by the County was based upon erroneous information and the terms of the business license have not been met. These failures doom Statewide's claim that they are entitled to continued commercial use of the property under the business license issued by Salt Lake County.

Finally, Statewide's business license claim is barred because it failed to properly pursue any of the available and required avenues of administrative appeal, forfeiting any right to action in the courts.

The City had the legislative power to deny Statewide's application for a rezoning of the area. The City Council denied the rezone application after a public hearing during which public sentiment was overwhelmingly against the change, and after review and agreeing with the findings of the Planning Commission that 1) the change is contrary to the General Plan; 2) the change would constitute spot zoning; 3) the lack of other agricultural land in the city and 4) two-thirds of the city is already zoned to allow for bail bonding. These factors create a reasonably debatable legislative choice justifying the City's decision to deny the Statewide's request for a zoning change.

1. THE CITY'S DENIAL OF THE STATEWIDE'S APPLICATION FOR REZONING WAS NOT ARBITRARY OR CAPRICIOUS.

In making planning decisions which incorporate the general public welfare, a city appropriately has wide legislative discretion. Because of the great public impact that any zoning change, a city zoning commission must have the discretion to make decisions that by definition will please some and displease others.

In making these decisions, it is the zoning commissions's "privilege and obligation to take into consideration their own knowledge of such matters and also to gather available pertinent information from all possible sources and give consideration to it in making their determination." Gayland v. Salt Lake County, 358 P.2d 633 (Utah 1961).

Our Courts have consistently held that a City Zoning and Planning Commission is delegated a considerable amount of discretion in formulating a zoning plan. The Utah Supreme Court detailed the powers of planning and zoning commissions in Marshall v. Salt Lake City, 141 P.2d 704 (Utah 1943). In Marshall, the court examined the ability of a city to create small islands of commercial use within a residential area. The court explained that the zoning scheme is created "for the general good, to secure reasonable neighborhood uniformity, and to exclude structures and occupations which clash therewith." Id. at 709. In creating the zoning plan, the commission acts in a manner which would "promote the general welfare; or even if it is reasonably debatable that it is in the interest of the general welfare." Id. The city retains the duty to create such a plan and even where such a plan is reasonably doubtful, the judgment of the court will not be substituted for the judgment of the city.

A court may intervene and set aside an action of the zoning commission only if the ordinances are found to be "confiscatory, discriminatory, or unreasonable." However, "courts should defer to the zoning authority since zoning is a legislative

function in which the authority has a wide latitude of discretion, and that if it is *reasonably debatable* that the zoning ordinances promote the general welfare the court should not substitute its judgment for that of the zoning authority.” Gibbons & Reed Co. v. North Salt Lake City, 431 P.2d 559,562 (Utah 1967) (emphasis added). Courts will not intrude upon a decision of a legislative body where the outcome is determined to be reasonably debatable.

The reasonably debatable standard was recently reviewed by the Utah Court of Appeals in the case of Harmon City, Inc v. Draper City, 997 P.2d 321 (Utah App. 2000). In Harmon City, the plaintiff challenged a decision by the Draper City Council not to allow for a shopping center to be built in a residential area. The City Council cited the danger of increased traffic and other safety concerns for their denial of the request of the zoning reclassification. The trial court had found that these concerns fulfilled the “reasonably debatable” standard and upheld the City Council’s decision. The Court of Appeals affirmed, explaining that it is “essentially a legislative problem, and the determination may be attacked only if there is no reasonable basis therefore.” Id. at 324. Where the city has made a zoning and planning decision that is open to reasonable debate, the courts must uphold the decision of the city.

Utah Courts have required that decisions concerning zoning and planning will be reviewed under a deferential standard. Where the zoning and planning decision is administrative in nature, such as the actions taken by Salt Lake County in approving the

business license, the courts apply a substantial evidence standard. See, Xanthos v. Board of Adjustment of Salt Lake City, 685 P.2d 1032, 1035 (Utah 1984) (court reviewed record for evidence to support the Board of Adjustment's action.) However, when reviewing legislative decisions, such as those involved in zoning and planning decisions, the court will apply the more deferential reasonably debatable standard. See Sandy City v. Salt Lake County, 827 P.2d 212, 220 (Utah App. 1998); Crestview-Holladay Homeowners Ass'n v. Engh Floral Co., 545 P.2d 1150,1152 (Utah 1976).

This standard of review was recently upheld in the case of Bradley v. Payson City Corporation, 17 P.3d 1160 (Utah App. 2001). Similar to the present case, the Bradley court considered the Payson City Council's decision to deny a request for a zoning change from low density residential agricultural zoning to medium or high density residential zoning. The court applied the reasonably debatable standard finding the decision to be a legislative proceeding that should be viewed deferentially by the courts. Id. at 1165. In applying the standard, the Bradley court considered the evidence that the change in zoning was denied for three reasons. First, the zone change would be contrary to the General Plan, second, the zone change could create traffic problems relating to the existing industrial park, and third, the Planning Commission recommended the applications be denied. The court found that the presence of these conditions was enough to satisfy the "reasonably debatable" standard.

Under the "reasonably debatable" standard, the denial of the request for

reclassification of the zoning by the City was proper. The City Council considered for public comment, which overwhelmingly favored the agricultural designation, based upon safety and conservation issues. Furthermore, the general zoning plan of the City has designated the area as one of the few areas of agricultural zoning in the city. These factors satisfy the “reasonably debatable” standard. Thus, the court should affirm the trial court’s decision to deny the request for a change in the nature of the zoning.

2. THE CITY COUNCIL FOLLOWED PROPER GUIDELINES IN DENYING STATEWIDE’S BUSINESS LICENSE APPLICATION.

The City followed the guidelines set forth in the Municipal Code for granting or denying a business license. Section 5.02.150 of the South Salt Lake Municipal Code states that licenses may be denied for failure to meet zoning requirements, false or incomplete information on the application, violation of any city, state or federal regulations relating to the business or through unlawful action done in the course of the business. The Code further requires that a business license official provide written notice of the decision to Statewide which includes the reasons for the denial and any accompanying documentation relating to the decision to deny the license, along with information concerning the applicant’s right to appeal the decision. Denial of a license may be appealed within ten working days of the date of the business license official’s notice of denial of the license.

Statewide applied for a business license shortly after City’s annexation. The application was denied and Statewide was properly notified of City’s decision.

Statewide failed to appeal the denial of the business license application to the Business License Hearing Board. Failure to seek administrative appeal of the decision within ten days of the notification of the denial bars Statewide from challenging the decision of the business licensing official.

Because Statewide has not availed itself of its statutorily required administrative remedy, neither the district court nor this court have subject-matter jurisdiction to hear the merits of Statewide's business license claim.. As such, the trial court was correct in dismissing the case for failure to exhaust the administrative remedies.

3. STATEWIDE'S BUSINESS OPERATION CONSTITUTED A NONCONFORMING USE AND WAS IN VIOLATION OF THE GENERAL ZONING PLAN OF SALT LAKE COUNTY AND THE CITY OF SOUTH SALT LAKE.

The County's granting of a business license to Statewide prior to annexation of the property does not require the City to continue to issue the license. The city has no obligation to issue a license to a business that would violate the city zoning ordinances. South Salt Lake Municipal Code Section § 5.02.150 explicitly states that a renewal of an existing business license may be denied if the applicant does not meet zoning requirements. The application of a business license at the address of Statewide is in violation of the city zoning plan, which has designated the land for agricultural uses. The City has no duty to continue to issue licenses for business uses that are contrary to its General Plan.

In the case of Town of Alta v. Ben Hame Corporation, 836 P.2d 797 (Utah App.

1992), the court explained that a prior issuance of a license does not grant a right to continued business. The Town of Alta denied a business license to a family that was renting its home on a short-term basis. Ben Hame had received three prior business licenses before its new application was denied. The Utah Court of Appeals upheld the denial because the business use requested business licenses as the use was contrary to the General Plan. The court explained that the “failure to enforce zoning for a time does not forfeit the power to enforce.” Id. at 803.

Furthermore, Salt Lake County’s initial issuance of the business license was improper as it was not properly approved by the Salt Lake County Commission. Thus, there was no license to be “grandfathered.” Statewide argues that the decision to issue the license was correct as Russell Lawson had been delegated the ability to approve business licenses. However, Mr. Lawson did not have the power to approve such a decision that would result in any deviation from the general zoning plan of the county. In support of their “grandfather” argument, Statewide cites Busche v. Salt Lake County, 26 P.3d 862 (Utah App. 2001), wherein the Court of Appeals found that a senior planner was able to approve a conditional use permit. The act of the senior planner, however, was found by the court to be ministerial in approving a zoning change to the building plan. This ministerial act is significantly different from the business license decision in this case, which effects a zoning change of the area from agricultural to commercial.

Statewide’s case is not controlled by the Busche case as Mr. Lawson’s decision to

issue a business license went beyond the ministerial duties that a senior planner may assume. The court defined the powers delegated to a senior planner as those which are ministerial in nature and defined ministerial as those powers which do not require that the individual “to exercise his own judgment upon the propriety of the acts being done.” Id. at 866. Mr. Lawson exceeded this boundary upon issuing a business license that is clearly at odds with the County’s general zoning plan. The grant of a license to operate a bail bonds business in an area which is one of the few remaining agricultural spaces left in the area is clearly not ministerial. Such a change should be available only after the Planning Commission has heard the arguments and using their legislative powers, to make the change that is best suited for the county as a whole.

Additionally, Statewide Bail Bonds does not have any right to a business license under a “grandfather” condition because of a discrepancy in the information provided in the business license application. The business license application remained incomplete due to the lack of an answer in the application on the nature of the business. The nature of the business was unlisted. The City of South Salt Lake Municipal Code § 5.02.150 explicitly states that an existing business license may be revoked and an application of an existing business license may be denied if false or incomplete information was provided on the business license application. Thus, the business license would have been rightfully denied on its own right, regardless of any applicable grandfather clause.

Lastly, the business license could not be continued as a “non-conforming” use as

the issuance of the previous license by Salt Lake County was contrary to the County's General Plan. As the license violated the General Plan, it was impermissibly issued and is invalid. A nonconforming use of the land has been determined to be one that "legally existed before its current zoning designation." Hugoe v. Woods Cross City, 988 P.2d 456, 458 (Utah App. 1999). As the business license issued by Salt Lake County did not comply with the General Plan for the County, Statewide does not have a non-conforming use that would allow him to do business in the face of applicable ordinances.

The City was under no obligation to continue to issue business licenses for unlawful uses of property, regardless of whether business licenses had previously been granted. The previous grant of a business license does not require the city to issue another license in any case, nor does it grant a perpetual right to the license. Moreover, the initial conveyance of the business license through Salt Lake County was not allowed as it was in violation of the General Plan. Therefore, Statewide has no ability to claim a continuing right to the business license.

4. THE CITY'S ACTIONS DO NOT AMOUNT TO A CASE OF IMPERMISSIBLE REVERSE SPOT ZONING IN THE AREA OF THE PLAINTIFF'S PROPERTY.

Denial of a request for reclassification of the zoning of the Statewide's property does not amount to a case of reverse spot zoning. To carve out a single parcel of property in the middle of an entire area for a different use would constitute spot-zoning. The refusal to grant such a parcel is not a situation of reverse spot-zoning. The case

involves the proper use of the City Council's power to determine the proper use of the land and the impact upon the community as a whole. As such, Statewide's circumstances do not amount to spot-zoning. Even if it is found to be a case of spot-zoning, it is a permissible use of spot-zoning as it is compliant with the overall plan of the community.

Spot-zoning has been described as "zoning action by which a smaller area is singled out of a larger area or district and specially zoned for a use classification totally different from and inconsistent with the classification of surrounding land, and not in accordance with the comprehensive plan." Save Our Rural Environment v. Snohomish County, 662 P.2d 816,819 (Wash. 1983). The area of Statewide's property has not been singled out for differential use from the surrounding land area. The area contiguous to Statewide's property has long been zoned as agricultural and continues to be used for agricultural purposes. This area has not been singled out as a use totally different from the surrounding land. In fact, it is Statewide's requested change in the zoning plan that would result in spot zoning as it would grant the property owners benefits that are not available to others who are nearby.

Regardless of whether the property can be considered as a case of spot-zoning, the classification of the land for agricultural use is within the design of the comprehensive plan and is in the best interest of the overall area. The Utah Court of Appeals explained what constituted impermissible spot zoning in the case of Town of Alta v. Ben Hame Corp., 836 P.2d 797 (Utah App. 1992). The Town of Alta had attained an injunction

which barred the defendants from leasing their home on a short-term basis. Defendant alleged that the zoning was done in a way to constitute spot zoning. However, the court found that “spot zoning may be permitted if the districts have been created in accordance with a clear plan.” *Id.* at 810. Spot-zoning is impermissible where special privileges are granted or restrictions are imposed which are not in agreement with the overall plan or do not benefit the public good. The Utah Supreme Court has found that spot zoning is permissible when it is “considered as falling within the terms of health, morals, safety and general welfare of the public.” Phi Kappa Iota Fraternity v. Salt Lake City, 212 P.2d 177 (Utah 1949) (Court upheld city’s decision to allow fraternities and sororities to exist only within 600 feet of school boundaries). The decision of the City Council of the City was made in the pursuit of the general welfare of the public. The decision to preserve the area as agricultural is in accordance with the General Plan and is a vital element in preserving what is the last remaining vestige of agricultural land in the boundaries of the City.

5. THE TRIAL COURT WAS CORRECT IN DISMISSING THE CASE AS THE PRESENCE OF A BAIL BOND IN THE PROXIMITY OF THE COUNTY JAIL IS IN VIOLATION OF STATE LAW.

The City is justified in denying the business license and the request for a change in zoning as Statewide Bail Bonds location in close proximity to the County Jail and therefore, is a violation of state law. UTAH CODE ANNOTATED § 31A-35-701 (2001) specifically prohibits a bail bonds business from soliciting “business in or about any place where

persons in the custody of the state or any local law enforcement or correctional agency are confined.” The application for Statewide to be in a location that is proximate to the County Jail and the Sheriff’s Office, both places where persons are in the custody of law enforcement agencies, is a direct violation of the state law.

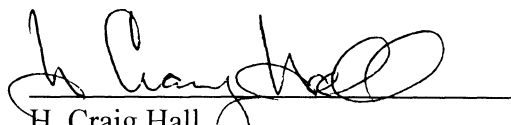
Statewide argues that the City should grant the business license and the change in zoning law as the presence of the County Jail, Sheriff’s Office and the County’s call center are in the immediate area. This argument fails to recognize that the State Legislature has determined that those who operate bail bonds businesses should not be allowed to solicit any business “in or about” any place where prisoners may be kept. Statewide undoubtedly desires to pursue the ability to do business in this area to provide Statewide with close access to the prisoners to receive business. This action was expressly forbidden by the State Legislature. As a result of the passage of U.C.A. § 31A-35-701 (2001), Statewide and any other bail bonds business would not be able to provide any sign or statement as to their identity and the type of service provided as it would be a solicitation for business.

Statewide claims that the area should be rezoned due to the wide application of bail bonds businesses to begin operation in the area. This argument is unpersuasive. Statewide claims that the desire of other bail bonds companies along with the presence of various government buildings creates a presumption for a change in the zoning. If the city granted Statewide license to do business in the area, it would be obliged to provide licenses for other bail bonds businesses who desire to do business in the area. Such an enclave of bail bonds businesses in the area would result in de facto advertising of the businesses, even in the event of the bail bonds business not providing any active advertisement of their presence.

CONCLUSION

The actions of the City are legal and within their power as a governing body. A municipal government is granted wide discretion in making zoning and planning decisions after taking into account the needs and future of the area. These decisions will only be questioned by the court upon Statewide's showing that the action was "arbitrary and capricious." As the City followed all of the guidelines in making the business licensing and zoning decisions, and because of the public sentiment against such a change, Statewide has the burden to show that the decision was made that is not "reasonably debatable." Furthermore, the presence of bail bond companies in such close proximity to the penal facilities will act as a solicitation of the those brought to the facilities, thereby causing a violation of state law. Due to their inability to meet this high standard of proof and the impermissible proximity of the business to the jail, the trial court made the correct decision in entering summary judgment for the City.

DATED this 9th day of October, 2001


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CERTIFICATE OF DELIVERY

I hereby certify that I served a copy of the foregoing APPELLEE'S BRIEF by depositing
a true and correct copy thereof in the United States Mails, postage prepaid, addressed to:

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Salt Lake City, Utah 84145-5678
(801)521-5678

on the 9th day of October, 2001.



David Jensen

Exhibit A

Chapter 19.48

A-1 AGRICULTURAL ZONE

Sections:

19.48.010	Purpose of provisions.
19.48.020	Permitted uses.
19.48.030	Conditional uses.
19.48.040	Lot area.
19.48.050	Lot width.
19.48.060	Front yard.
19.48.070	Side yard.
19.48.080	Rear yard.
19.48.090	Building height.

19.48.010 Purpose of provisions.

The purpose of the A-1 zone is to provide areas in the county for low-density residential development, together with limited agricultural uses. (Prior code § 22-23-1)

19.48.020 Permitted uses.

Permitted uses in the A-1 zone include:

- Accessory uses and buildings customarily incidental to permitted uses;
 - Agriculture;
 - Animals and fowl for family food production;
 - Apiary;
 - Aviary;
 - Farm devoted to the raising and marketing, on a commercial scale, of chickens, turkeys or other fowl or poultry, rabbits, chinchilla, beaver, nutria, fish or frogs;
 - Home day care/preschool, subject to Section 19.04.293;
 - Household pets;
 - Raising and grazing of horses, cattle, sheep or goats, provided that such raising or grazing is not a part of, nor conducted in conjunction with, any livestock feedyard, livestock sales yard, animal byproduct business, or commercial riding academy;
 - Residential facility for elderly persons;
 - Single-family dwelling;
 - Worm farming (minimum lot area one acre).
- (Ord. 1200 § 5 (part), 1992; Ord. 1179 § 5 (part),

1992; 1986 Recodification; § 1 (part) of Ord. passed 2/1/84; prior code § 22-23-2)

19.48.030 Conditional uses.

Conditional uses in the A-1 zone include:

- Airport;
- Bed and breakfast homestay;
- Campgrounds;
- Cemetery;
- Day care/preschool center, subject to Section 19.76.260 of this title;
- Dwelling group.

A. The parcel of ground on which the dwelling group, as defined in Section 19.04.190 of this title, is to be erected shall have an area equal to the aggregate of the minimum lot areas otherwise required in the zone for the number of individual dwelling structures in the group.

B. The distance between the principal buildings shall be equal to the total side yards required in the zone; provided, however, that at the option of the developer, the distance between the principal structures may be reduced to ten feet, provided that the difference between ten feet and the required side yards is maintained as permanently landscaped open space elsewhere on the site. The distance between principal buildings and the nearest perimeter lot line shall not be less than fifteen feet unless demonstrated by the development plan that the yard required for a principal building in the district in which located is more appropriate. The distance between the building and a public street shall be not less than the front yard required in the zoning district, except for corner lots the side yard which faces on a public street shall be not less than twenty feet.

C. Access shall be provided by a private street or right-of-way from a public street; the private street or right-of-way shall not be less than twenty feet wide for one or two rear dwelling units and not less than thirty feet wide for three or more dwelling units.

D. A minimum of two parking spaces shall be provided for each dwelling unit. Parking spaces and vehicular maneuvering areas shall be designed to comply with county standards.

E. Every dwelling in the dwelling group shall be within sixty feet of an access roadway or drive.

F. The development plan shall provide a buffer landscaped area along all property lines and decorative landscaping adjacent to the buildings in appropriate locations. Solid visual barrier fences shall be provided along all property lines unless the planning commission approves otherwise by deleting or modifying the fence requirement.

G. The development shall be approved by the development services director and the county fire chief before final approval is given by the planning commission.

- Fruit and/or vegetable stand, provided that the products are produced on the premises;

- Golf course;

- Home day care/preschool, subject to Section 19.04.293;

- Home occupation;

- Milk processing and sale, provided that at least fifty percent of the milk processed or sold is produced on the premises;

- Nursery and/or greenhouse, excluding retail sales;

- Nursing home;

- Pigeons, subject to city-county health department health regulations;

- Planned unit development;

- Plant for storage or packing of fruit or vegetables produced on the premises;

- Private educational institution having an academic curriculum similar to that ordinarily given in public schools;

- Private nonprofit recreational grounds and facilities;

- Public and quasi-public uses;

- Radio and television transmitting and relay station and tower, excluding business office or studio, except such control room studio facilities as required for emergency broadcasts in the event of a national or local disaster;

- Residential health care facility for up to five residents on streets less than eighty feet in width, and up to ten residents on street eighty feet and wider, excluding the facility operator and his/her

related family with a maximum of one nonresident part-time relief employee on the premises at any one time unless additional staffing is required by the Utah Department of Health, which use shall not change the residential appearance and character of the property;

- Sportsman's kennel (minimum lot area one acre);

- Temporary buildings for uses incidental to construction work, which buildings must be removed upon completion or abandonment of the construction work. If such buildings are not removed within ninety days upon completion of construction and thirty days after notice, the buildings will be removed by the county at the expense of the owner;

- Two-family dwelling. (Ord. 1338 § 2 (part), 1996; Ord. 1198 § 8 (part), 1992; Ord. 1179 § 6 (part), 1992; Ord. 1170 §§ 2 (part), 3 (part), 1991; Ord. 1118 § 5 (part), 1990; Ord. 1088 § 5 (part), 1989; (part) of Ord. passed 12/15/82; Ord. passed 11/17/82; prior code § 22-23-3)

19.48.040 Lot area.

In the A-1 zone, the minimum lot area for any dwelling, school, church, greenhouse, aviary or apiary, or for the keeping of animals and fowl for family food production, shall be ten thousand square feet. The minimum lot area for any fowl, poultry, rabbit, fish, chinchilla, beaver, nutria or frog farm, or for raising or grazing horses, cattle, sheep or goats (except as permitted for family food production), or for packing or storage plants, shall be one acre. The minimum lot area for radio and television transmitting and relay stations and towers shall be four acres or more, such additional area to be sufficient to permit the placement of towers in such a manner that side clearance in every direction from each and every tower shall be equal to or greater than the height of the tower. (Prior code § 22-23-4)

19.48.050 Lot width.

In the A-1 zone, the minimum width of any lot which is required by this chapter to contain a minimum area of ten thousand square feet shall be

sixty-five feet. The minimum width of any lot which is required by this chapter to contain a minimum area of one acre shall be one hundred feet. The minimum width of any lot which is required by this

Exhibit B

Report Date 02/29/2000 11:13 AM

Submitted By

Page 1

ense # 37430

Application Information

Stages

	Date / Time	By
Processed	07/23/1998 14:07	LNK
Issued	11/04/1998 13:32	
Expires	12/31/1998	
Grace Exp	02/15/1999	

Associated Information

Priority	
<input checked="" type="checkbox"/> Inactive	01/05/1999 13:32 JJW
# Plans	0
# Pages	0
<input checked="" type="checkbox"/> Auto Plan Reviews	

Comments

No Comments

Project #	Project/Phase Name	Phase #
Size/Area	0.00	Size Description

Renewals

Renewal Date Renewed By

There are no Renewals Associated with this Record.

Applicants/Contacts

Primary	N	Capacity	APPL	Contact ID	AA41317	<input type="checkbox"/> Foreign
Name	TY WEBBER					
Day Phone		Eve Phone		Address		
Pager		PIN #				
Fax		Mobile				
E-Mail						
Organization	STATEWIDE BAIL BONDS	Position	OWNER	Profession		

Comments

No Comments

Contractors

Primary	Y	Contact ID	37430	Name	STATEWIDE BAIL BONDS
Phone	(801)261-3055 x	Fax		Address	3350 S 900 W
Comments					SALT LAKE CITY, UT 84119-

No Comments

License #	Type	Contact ID	Name
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No Company/Contractor Licenses

Review Activities

Act #	Act Type	Comments
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16931	BLZONING	
16932	BLBLDG	
16933	BLSIC	
16934	BLFIRE	
16935	BLHEALTH	
16936	BLSHERIFF	

Employee

Employee ID

Comments

No Employee Entries

Applied for license - 7-23-98 - Waiting for software change to print license - license was valid - 7-23-98

Exhibit C

SALT LAKE COUNTY

Expires last day of:

DEC 1998

STATEWIDE BAIL BONDS

3350 S 900 W
SALT LAKE CITY UT 84119-

Issue Date: 11/04/98

Owner/Agent: TY
WEBBER

Basic Fees

BASIC FEE	1	\$40.00
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Regulatory Fees

PHONE AND MAIL	1	\$15.00
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Business Type:

Account Number: 37430


Chair, Salt Lake County Commission

This license is granted to the Named Company to do the specified business in Salt Lake County at the above address. This Company has complied with the provisions of the Ordinances of Salt Lake County governing this type of business and has paid the County Treasurer the necessary amount to operate such business for the period stated.

It shall be unlawful for any person to engage in business within Salt Lake County without first procuring a business license.
(Salt Lake County Ordinance Sec. 5.16.020)

This license is not transferable between owners and/or locations. This license is valid only for type of business stated.

Post this License in a Conspicuous Place at Business Location

Business License

Exhibit D

City Of South Salt Lake
APPLICATION PLANNING & ZONING AGENDA
First Thursday Of Each Month

372 9314
15, 11

1

RECEIVED
JUN - 2 1999

APPLICATION IS FOR:

Conditional Use Permit _____

Special Exception _____

Zone Change Request ☒

New Subdivision _____

Condo Conversion _____

Planned Unit Development _____

PROPERTY ADDRESS: 3350 So 900 W.

ZONE: A-1 (AGR.)

LIST SPECIFICALLY EACH ITEM REQUESTED FOR REVIEW BY THE COMMISSIONERS:

1. Re Zone to Commercial
2. OUR BUSINESS USES THE BACK HALF OF THE
3. PROPERTY FOR STORAGE OF OUR CARS AND OTHER VEHICLES
4. AS PART OF OUR BOWLING BUSINESS - WE ALSO OWN THE
ADJACENT PROPERTY TO THE NORTH. IT WOULD BE A HARDSHIP
FOR US WITHOUT THE PROPER COMMERCIAL ZONING.

APPLICANT INFORMATION

wants THANKS
Industrial Zoning

OWNERS NAME: Tyron B. Webster

OWNERS ADDRESS: _____

OWNERS PHONE #: _____

SIGNATURE: Tyron B. Webster

AGENTS NAME: William Clavin

AGENTS ADDRESS: 2120 SO STATE ST - SUITE 84115

AGENTS PHONE #: 801-372-9314

SIGNATURE: William Clavin

OFFICE USE ONLY

Date Applied: 02 June, 99

Meeting Date: 19 Oct. 99.

Approved: _____

Conditions: _____

Disapproved: _____

EXHIBIT "E"

Exhibit E



July 2, 1999

Tyron Webber
Statewide Bail Bonds
3350 South 900 West
South Salt Lake, Utah 84119

RE: Business Licensing

Dear Mr. Webber;

You submitted an application for a business license at the above location. We have been investigating the circumstances regarding the operations and have finally arrived at the following conclusions:

1. At the Time of annexation, you were operating under a business license issued by Salt Lake County.
2. The City of South Salt Lake honored that license by allowing operations of a bail bond office to continue as a nonconforming business with the provision that you meet all building code requirements for a business (requires an inspection and making any needed corrections for an approval) and not maintain any outside storage.
3. Since then we have discovered that the business license issued to you by the County was in violation of the zoning regulations of the County and should NOT have been issued. Therefore, your business was NOT a legally operating business at the time of annexation and, as such, does not have any legal nonconforming status.
4. The property is presently found within an A-1 zone which does NOT allow businesses of your type (the same as the County).
5. The City will not issue a new license for the property but, in the interest of equitable treatment and due to annexation issues, will allow a reasonable time for the operations to be relocated before taking any steps to force complete cessation of operations as noted in number 2 herein. We will allow operation for the remainder of the year (to December 31, 1999) provided the items in number 6 herein are met.

6. In order to continue ANY operations, you need to comply with the terms of the original determination (see number 2 herein) by obtaining an inspection, making all necessary corrections, and ceasing all outside storage within 30 days of this letter OR you may cease all operations and relocate within the same time frame. You decide the best course for you.

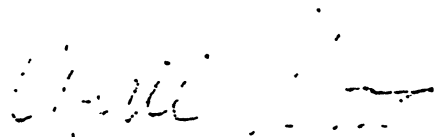
Should you desire to continue with a request for a change in zoning, you need to finish the Community Council process and submit a petition to the Planning Office, and, at the same time, request a review of the General Plan. Be advised that the chances of such happening quickly are slim, and the likelihood of any approval, at this time in the City's evolution and given the history of the area and the General Plan process, are negligible (the Planning Commission has held a Public Hearing on a request to change some zoning in the area and determined that they would not support any such change without a change in the General Plan of the City occurring first - no such change has occurred or is even in the works).

Should you have further questions, feel free to contact the Community Development Department at 483-6011. For inspection scheduling, please call Business Licensing at 483-6063.

Sincerely,



Bruce Talbot, Director
Community and Economic Development



Cherie Wood
Business License Official

cc: Craig Hall, City Attorney
Corey Carlson, Enforcement Officer
Greg Sauter, Inspector

Exhibit F

Planning Commission Meeting Minutes

Tuesday, October 19, 1999

City Council Chambers

220 East Morris Avenue

Time: 7:00 p.m

1

Planning Commission Meeting: 7:00 p.m.

Commission Members Present:

Scott Adams - Conducting
Lloyd Anderson
Barbara Carlson
Steve Norr
Greg Sullivan
Reiner Groebs
Gary Sandberg
Linda Campbell

Commission Members Excused:

Connie Dickson

Staff Members Present:

Jared Hall
Tracy Swenson
Larry Gardner

Others Present:

See attached sheet for names & addresses

Moment of Reflection:

Pledge of Allegiance:

Steve Norr

Approve Agenda -

Commissioner Norr

Moved to approved the agenda with the correction of Steve Norr leading the Pledge of Allegiance and the deletion of Zoning Ordinance Changes, the Minutes, and Staff Business.

Commissioner Anderson

Second the motion

Vote:

Unanimous

Continuing Business -

1. Newsome Village Town homes, 3395 South 300 East (final approval)

Mike Reberg stated the last time he was here he received preliminary approval for the project and was asked to come back with CC&R documents, homeowners association plans, and some building elevation and unit plans. He would like to get the Planning Commissions final approval on the project.

Commissioner Sandberg asked what the time frame on building would be.

Mr. Reberg stated they would be built in three Phases. Construction will begin in late winter or early spring. Thirteen units will be built first and will start being sold. The back entrance will be used to build the second phase. The second phase will be started six months after the close of the first phase.

Jared Hall stated the alley vacation is scheduled for public hearing at City Council on November 10th.

Commissioner Norr stated that he would like a proviso in the motion that if the project was not maintained the City could clean it up.

Motion:

Commissioner Carlson	Moved to approve Newsome Village to go on to the City Council and add the proviso about the maintenance, and successful vacation of the alley.
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Commissioner Sandberg had a question concerning the maintenance of the project.

Mr. Reberg stated that in the incorporation documents and CC&R's the homeowners association will set up two funds. One for the maintenance and services like snow removal, garbage and landscaping. The other will be for long term maintenance capital project fund that will accrue over time. Until all the units are sold they would be an active participant in the association and will add money to the association to start that under way with each unit that is sold. It will be a \$90.00 a month fee, which should cover long term capital projects and to keep the ongoing maintenance.

Jared Hall stated the Planning Commission could request insertion of a paragraph in the CC&R a statement to the effect that if there are agreements from the CC&R not being upheld appropriately or in conflict with South Salt Lake City ordinance, South Salt Lake City ordinance shall prevail. South Salt Lake has to abate nuisances under the municipal code regardless of what the homeowners association states.

Commissioner Sandberg	Second the motion with the statement that if there are violations to the bylaws that are adopted, the City can enforce them under the nuisance abatement laws
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Commissioner Carlson	Agreed to the statement
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Vote

Unanimous

New Business

1. Public Hearing -Request for Change of Zoning from Agriculture to Light Industrial

Petitioner - Tyron B. Webber

Location - 3350 South 900 West

Steven Brandtley, attorney for Mr. Webber, stated he would like to have the Planning Commission consider the zone change due to the fact the area has changed. Since UTA and the jail has been built, it is not the rural setting that it once was. Mr Webber is living in the home. A license was granted by Salt Lake County to the petitioner. The City of South Salt Lake has stated they would revoke his license as of December 31, 1999. Therefore, he would like to propose this change thus eliminating the concerns of any type of legal action that might be involved due to a unilateral revocation of a prior license granted by a prior political entity that had been granted. There are other bail bonding companies that have bought property in this area also. Offered to meet with the neighbors to work out problems.

Jared Hall stated that for the benefit of the public and Planning Commission the bail bond company license was issued in error by the County. The City suggested that Mr. Webber seek a new locale for his business or seek to have his zoning changed by the end of the year. Mr. Webber is currently operating without a renewed license from South Salt Lake. The surrounding zoning is agricultural. The general plan does call for it to remain agricultural, on this basis, staff has recommended that it be denied.

Public Hearing Opened: 7:25 p.m.

Theron Kingston, Chair for the Jordan River Community Council, stated that the petitioner had met with the Community Council and his proposition was rejected. No one wants a zoning change. All the residents wants to stay agricultural.

Cindy Jones, 3492 South 1000 W., asked the Commission to deny the petition for a zone change. The individual bought the property knowing it was in an Agricultural zone. She feels it would be spot zoning which is not allowed in the City. She feels that it is very important that the area be maintained as Agricultural. If this was allowed to be changed, then in time any sort of a business could be there. She also showed a letter from Jim and Joyce Hewitt showing the were also against the area being changed from A-1.

Mary Ann Webber, 3350 South 900 West, stated she is living in the home with her family and the area is not a residential area any more. It is not an ideal place to raise children, because of UTA and the new county jail across the street. Inmates are allowed out on the grounds to service the yard. She does not feel safe to have her children play outside. She feels the area along 9th West should be business. She doesn't feel families would move into this area.

Elaine Jones, 3419 South 10th West, stated that when the area was annexed they were promised the City would do everything it could to keep the area agricultural. There are mentally ill facilities, and a detention center in this area that have worked with the neighbors. If Mrs. Webber is afraid to live there, why is she. It is not a neighborhood because bail bondsmen have purchased all the land on 9th West. They purchased the property knowing it was zoned Agricultural.

Audry Fratto, lives behind one of the houses of the bail bondsmen, stated there are junk cars on the property and a barking dog.

Ty Webber, 3350 South 900 West, stated there were no junk cars there. The cars that were there did run and have been removed. They have fenced the yard. There are four homes owned by bail bonding companies in this area. He feels that all of 900 West is commercial. He stated Salt Lake County told them that the zone would be changed automatically when the jail was complete.

Cindy Jones, 3492 South 1000 W., stated she wants the Planning Commission to understand that if the zoning is changed for one bail bondsman, then all of them will be changed and this would also effect the people living on 1000 West.

Alan Jenkins, owner of the house next to Mr. Webber, stated he had an investment in the house, and would like to know if there is ever going to be a chance that the zoning will change.

Gary Walton, property holder on 3300 South, stated that the area is in radical transition and would like to know the position of the City and the Planning Commission on the 911 emergency operations facility the county proposes to build on the property next to the Webbers.

Jared Hall stated it was a recent applicant and had not been seen as a body yet. A lot of the uses are in fact not agricultural, they are however, public and quasi-public, which are allowed as conditional uses in agricultural zone and do not require a zone change, therefore, not against the General Plan.

Public Hearing Closed: 8:45 p.m.

Commissioner Norr commented that the City has two areas of agricultural zone. One on the north and one on the south side of 3300. Several years ago a jail was put in on the north side. The remaining families living in the agricultural area have accepted the transformation. If the zoning is left alone the people in this area will be fine.

Motion:

Commissioner Norr

Moved for denial on the conditions on four findings of fact. The first is it is not in conformity with the General Plan, the second is that it would be spot zoning, the third is that the City should retain the remainder of agricultural land as agricultural, the forth is that two thirds of the City is zoned

as a place where bail bonding would be allowed.

Commissioner Campbell

Second the motion

Vote

Unanimous

Commission Business -

Commissioner Norr

Moved to adjourn

Meeting adjourned at 7:50 p.m.

Scott Adams
Commission Chair

Tracy Swenson
Planning Commission Secretary

Exhibit G

CITY OF SOUTH SALT LAKE
CITY COUNCIL MEETING

COUNCIL MEETING

Wednesday, January 12, 2000
7:00 p.m.

CITY OFFICES

220 East Morris Avenue
South Salt Lake, Utah 84115

PRESIDING
CONDUCTING

Council Chair Robert D. Gray
Council Member Stacey Liddiard

PRAYER/PLEDGE OF ALLEGIANCE

Council Member Douglas Moffat

COUNCIL MEMBERS PRESENT:

William F. Anderson, Robert D. Gray, Stacey Liddiard, Boyd L. Marshall,
Douglas Moffat, Shane Siwik, and Renee Watts

STAFF PRESENT:

Mayor Randy Fitts
H. Craig Hall, City Attorney
Karen Rynearson, City Recorder
Dawn Deakin, Deputy City Recorder
Bruce Talbot, Community Development
Gail Carlson, Director of Finance
Geri Tessman, Public Works
Paul McCullough, Sergeant-At-Arms
Kyle Kingsbury, Public Works Director
Steve Foote, Fire Chief
Drew Long, Police Chief
Beau Babka, Assistant Police Chief

OTHERS PRESENT:

See attached sheet for names and addresses

APPROVAL OF MINUTES

Council Chair Gray moved to accept the minutes of the **December 8, 1999**
Council meeting.

MOTION: Robert D. Gray
SECOND: Douglas Moffat

Council Member Marshall asked if access would be continued at the rear of the property.

Mr. Talbot explained that the existing access crosses another property and is not permanent.

Council Member Anderson asked how the City will require that the improvements be made to the property as agreed upon by the developer.

Mr. Talbot stated that the improvements will not be required until the development of the property begins. At that time, the improvements will be required to be submitted as a part of the plans to obtain a building permit.

Council Member Moffat moved to approve the request of Jerry Lambert for a change of zoning from RM to Business-A at 398 East 3300 South.

MOTION: Douglas Moffat

SECOND: Boyd L. Marshall

Roll call vote:

Anderson	Aye
Gray	Aye
Liddiard	Aye
Marshall	Aye
Moffat	Aye
Siwik	Aye
Watts	Aye

PUBLIC HEARING - 7:50 p.m. - To receive public comment on a request of Tyron B. Webber for a change of zoning from A-1 (Agriculture) to Business-A at 3350 South 900 West.

Bruce Talbot stated that the staff, Community Council, and Planning Commission recommend denial of this request. He explained that Statewide Bail Bonds is operating in this house on a license issued by Salt Lake County prior to annexation. The City notified the business owners that they are operating illegally and that the business would be required to relocate or apply for a zone change by December 31, 1999.

Steven Brantly - representing the petitioner - stated that his client had received a license to operate at the location by Salt Lake County and was assured by the Commissioners that the zone would be changed once the jail had been constructed. His client bought the property and made improvements with the understanding that the zone would be changed. He also stated that his

clients live in the home and encouraged the Council to listen to them as citizens. The residents of the house only want to maintain their status. He also commented that there are some legal questions as to the fairness of the requirements of the City. He feels the business should be grandfathered and the zone change allowed.

Mr. Brantly explained that the property on 900 West faces the jail. The street is no longer agricultural; it is a busy street with lots of jail traffic. The residents in the area live on 1000 West. The petitioner does not want to change the other areas but wants to make sure that people don't hang around the area waiting for inmates to be released. He stated that the General Plan should be amended because the area has changed. He stated that he understands the desire of the City to maintain the agricultural area. The petitioner does not want to change the property or the building and does not want to affect the residential neighborhood behind the business. He also asked the Council to consider the difference between this application and other recent applications: this property contains a business that was licensed by the County, the property was purchased after the license was approved, and the owners only want to maintain their existing life.

Cindy Jones - 3492 South 1000 West - stated that the zone change would be against the General Plan, would be spot zoning and would begin to take away the last piece of agricultural land in South Salt Lake. She stated that the land was zoned A-1 prior to the property being purchased and prior to annexation. She also explained that once the property has been zoned for commercial use, buildings can be erected but cannot be easily converted back to agricultural use. She asked that the Council deny the request for zone change.

Deb Sieber McWhickens - 3344 South 900 West - stated that the street is always busy with large trucks causing cracks in the foundations of the houses on the street and breaking light bulbs inside the houses. Boilers at the jail exhaust steam at night creating a lot of noise in the area and there is a large microwave dish near her house. The residents on 1000 West live away from the area and are sheltered from the noise and problems. She asked that if the street is really a residential area, the speed limit should be reduced to twenty-five miles per hour and large trucks should be prohibited. She asked that the City allow the change in zoning for the area to be developed correctly, with nice buildings.

Jim Hewitt - 3340 South 1000 West - stated that he has lived in the area for thirty-eight years and asked the Council to leave the area zoned for agricultural use. The owner purchased the land knowing that it was zoned A-1 and should be required to use the land as zoned.

Elaine Jones - 3419 South 1000 West - stated that Mrs. McWhickens needs the area to be zoned for agricultural to continue to raise her horses. She also asked how much more land will the County take? She explained that the reason she signed a petition in favor of annexation was because the Mayor promised her that the City would not allow a change in zoning in that area.

Ty Webber - 3350 South 900 West - explained that he purchased the property because he knew the jail would be built in the area. When he purchased the property, he was told by the County that they did not need to apply for a zone change, it would automatically be changed upon completion of the jail. He also explained that there is a difference between 900 West and 1000 West. The agricultural uses cannot be seen on 900 West. 900 West appears to be a commercial area - four of the five properties on 900 West are owned by businesses. On 1000 West, the area is nice, quiet, and appears to be agricultural. He requested that the Council approve the request for zone change.

Jim Kidd - 3232 South 600 East - stated that he had spoken with some people at the University of Utah who claim that the City would be spot zoning if this request is approved. He also stated that the whole area would need to be rezoned, not just one or two properties.

Joyce Hewitt - 3340 South 1000 West - stated that the properties on 900 West have an acre of ground or more with a single home. The property owned by the applicant has had junk cars and other solid waste stored in the yard. The business had accepted the items as collateral for bail. She stated that because of the nature of the bail bond business, it would be an ongoing problem if the zone change, for this or any other properties, is approved.

Mr. Webber (applicant's father) - 3350 South 900 West - stated that no junk cars are being stored at the property. The items were removed when the City asked for their removal and only a boat, horse trailer, and vehicles driven by the occupants are at the location. He also stated that the properties in the area are not used for agriculture. They are residential houses on large lots surrounded by businesses. Mr. Webber also commented that he cannot see how 900 West can maintain an agricultural status.

Mike McWhickens - 3493 South 900 West - stated that the agricultural land in the area contains only old fences and an abandoned barn. He explained that the area has problems with vagrants, there is a bar and mental institution in the area, and explained that Salt Lake County Deputies have caught people in his yard attempting to break into the jail.

Theron Kingston - Jordan River Community Council - stated that the Community Council and Planning Commission have both denied the request for zone change because it does not fit in the General Plan. He stated that this is the last agricultural area in the City. Agricultural zoning has been cut down and made less for many years. Now, this applicant wants to cut down the little bit that is left. He stated that the City needs to have public input into the General Plan to find out what the citizens want to see in the area. He also stated that there are many areas within the City for bail bonds businesses to operate.

Mr. Kingston stated that if the land in the agricultural zone is used mainly for horses. He also stated that if the City approves a zone change for one bail bond company, it will need to make allowances for the rest. He asked that the Council deny the request for zone change.

Uleta Moss - 155 East 2700 South - stated that this is a complex issue. Many of the people living in the area have the privilege of riding their horses around their house. She asked if horses would still be allowed if the zone change was granted for the area on 900 West.

Craig Hall stated that the same number of horses would be allowed and would be legally non-conforming. The number of horses could not increase.

Ms. Moss also stated that the City spent a lot of money on the General Plan and encouraged the Council to follow the plan. She commented that what happens in one area affects the whole City.

Council Member Siwik asked if the rezoning would be considered spot zoning.

Mr. Hall stated that if the Council rezones one property that is not contiguous to matching zoning, it would probably be considered spot zoning.

Council Member Marshall stated that good points were made on both sides. The County was in control when the jail, bar, and Valley Mental Health were approved and knew the City was close to annexing the area. He asked where the domino effect will stop. The residents have lived in the area for many years, longer than any of the businesses in the area. When the County was in control, they allowed the area to become run down but the City has plans for the area. He also stated that the businesses speculated in purchasing the property prior to the zone changing to allow the proposed type of business. He thinks the Council should deny the request.

Council Member Moffat asked that if spot zoning is illegal, is it necessary for the Council to consider the issue if it can't approve it?

Mr. Hall stated that the City believes the citizens have a right to approach their government for action. The policy is to allow people to petition the Council and the staff will make recommendations.

Council Member Moffat stated that the City needs to look at the General Plan and find out what the residents want for the area. He encouraged the Council to stick to the General Plan as it is established.

Council Member Anderson asked what consequences the business will face if the zone change is denied.

Mr. Talbot stated that they are operating without approval from the City. They will need to stop doing business at the location.

Council Member Anderson asked what legal problems the City may face by asking the owner to stop doing business. He also asked about the legal issues about not grandfathering an existing business.

Mr. Hall stated that the petitioners have the right to appeal to the District Court or will need to stop doing business at that location at a date specified by the City. He stated that the representations made by the County cannot be held against the City Council. The City Council made no representations to the business owners regarding the approval of a business license. He suggested that the owners of the business will need to seek recourse against Salt Lake County.

Council Member Anderson asked if there had been any discussion with Mr. Webber prior to annexation.

Mr. Hall stated that he did not approach Mr. Webber but was not sure if someone else from the City had contacted him or not. It is his understanding that the City did not approach Mr. Webber about annexation.

Council Member Anderson also asked if these types of businesses could be located elsewhere within the City. He also asked if there are available places close to the jail for them to locate.

Mr. Talbot stated that many bail bondsmen operate only out of offices. This company needs outside storage. Either use would be allowed in an industrial zone. One-third of the City is zoned for industrial use. He also stated that there are vacant buildings on 700 West, 500 West, and 900 West north of 3300 South. There is not a significant number of vacancies but there are spaces that can be utilized for this purposes. He stated that a bail bond company recently located on 700 West.

Council Member Siwik asked if outside storage could be continued in a light industrial zone.

Mr. Talbot stated that outside storage could be used in a light industrial zone. There are some conditions, but it is an allowable use.

Council Member Siwik also asked if they could continue living in the building if the zone change was approved.

Mr. Talbot stated that it is possible to continue living in the building but it would require significant alteration of the structure. Physical separation between the two types of uses would be required to approve the dual use. The existing building does not include a separation of the uses.

Council Member Anderson asked why the bar is allowed to operate in an agricultural zone.

Mr. Talbot explained that the bar has been located in the area for many years and was grandfathered by the City upon annexation.

Council Member Siwik asked if the home occupation could be grandfathered at the County's standards rather than our standards.

Mr. Talbot stated that the business does not meet the County's home occupation standards. The business was licensed by the County as a regular business and not as a home occupation.

Council Member Marshall moved to deny the request of Tyron B. Webber for a change of zoning from A-1 to Business-A at 3350 South 900 West and asked that the City review the General Plan with the residents in that area.

MOTION: Boyd L. Marshall

SECOND: Shane Siwik

Mr. Hall asked that the Council consider amending the motion to direct Mr. Talbot and the Attorney's Office to draft findings and conclusions on this matter.

Council Member Marshall agreed with the amendment.

Council Member Marshall moved to deny the request of Tyron B. Webber for a change of zoning from A-1 to Business-A at 3350 South 900 West, that the City review the General Plan with the residents in that area, and directing Mr. Talbot and the City Attorney's Office to draft findings and conclusions on the matter.

MOTION: Boyd L. Marshall

SECOND: Shane Siwik

Roll call vote:

Anderson	Aye
Gray	Aye
Liddiard	Aye
Marshall	Aye
Moffat	Aye
Siwik	Aye
Watts	Aye

PUBLIC HEARING - 9:55 p.m. - To receive public comment on a request from Robert Kireiev to vacate a portion of public right of way (currently undeveloped) located at approximately 3440 South 400 East.

Bruce Talbot explained that this issue was brought up during development approval for the 34th Street Condominium project when a portion of the right of way *immediately north of this piece was vacated. The County required the owners of Villa Franche Apartments to dedicate a portion of their property during development for future roadway development. The County did not develop a roadway and later approved a development next to them and did not require dedication. As a result of the previous vacation and lack of roadway development in the area, the staff recommends the City vacate the parcel in favor of the original owner. It is undeveloped, in between two fences. The City will retain the right to use the space for utility easements.*

Margaret Kireiev - 3440 South 400 East - stated that the piece will remain fenced but it will be maintained if the Council vacates it.

Tash Yaltzin - 3440 South 400 East - stated that the place is very dirty and asked that the City vacate the alley. He also stated that there should be a wall erected between the apartment buildings.

Council Member Marshall moved to approve the request from Robert Kireiev to vacate a portion of public right of way located at approximately 3440 South 400 East.

Council Member Anderson asked that the vacation be allowed at no fee.

MOTION: Boyd L. Marshall

SECOND: William Anderson

MOTION: Boyd L. Marshall

SECOND: Shane Siwik

Roll call vote:

Anderson	Aye
Gray	Aye
Liddiard	Aye
Marshall	Aye
Moffat	Aye
Siwik	Aye
Watts	Aye

PUBLIC HEARING - 9:55 p.m. - To receive public comment on a request from Robert Kireiev to vacate a portion of public right of way (currently undeveloped) located at approximately 3440 South 400 East.

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Council Member Marshall moved to approve the request from Robert Kireiev to vacate a portion of public right of way located at approximately 3440 South 400 East.

Council Member Anderson asked that the vacation be allowed at no fee.

MOTION: Boyd L. Marshall

SECOND: William Anderson

5. Adopt Ordinance Vacating an Alleyway/Walkway Located at Approximately 514 West 3900 South.

Council Member Marshall moved to adopt the ordinance vacating an alleyway/walkway located at approximately 514 West 3900 South.

MOTION: Boyd L. Marshall

SECOND: Robert D. Gray

Roll call vote:

Anderson Aye

Gray Aye

Liddiard Aye

Marshall Aye

Moffat Aye

Siwik Aye

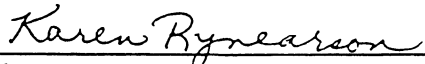
Watts Aye

NEW COUNCIL BUSINESS

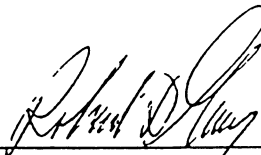
NO ITEMS

Council Member Marshall moved to adjourn the meeting.

The meeting adjourned at 9:50 p.m.



Karen Rynearson
City Recorder, Council Secretary



Robert D. Gray
Council Chair